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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/591,361

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EXAMINER

ZIA, SYED

ART UNIT

PAPER NUMBER

2431

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/591,361	Applicant(s) MCNEELY, DAVID LOWELL	
	Examiner SYED ZIA	Art Unit 2431	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8, 10-14, 16-19, 21, 22 and 24-26 is/are rejected.
- 7) ☒ Claim(s) 9, 15, 20 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to amendment and remarks filed on September 16, 2009. The amendments filed on September 16, 2009 have been entered and made of record. Claims 8-26 are pending.

Response to Arguments

Applicant's arguments filed on September 16, 2009 have been fully considered

Applicant's arguments with respect to claim 8-26 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

Claims 9, 15, 20, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 2431

1. Claim 8, 10-14, 16-19, 21-22, and 24-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Marker, Jr. (U. S. Patent 4,802,220).

2. Regarding Claim 8 Marker teaches and describes a method for communicating a program signal, comprising the steps of: encrypting the program signal using encryption information to produce an encrypted program signal; dividing the encryption information into a plurality of encryption information portions; communicating the encrypted program signal via a first communications channel the encrypted program signal being transmitted via first transport packets, each first transport packet having a first identifier associated with the program signal; and communicating the plurality of encryption information portions via a second communications channel that is independent of the first communications channel, the encryption information portion being transmitted via second transport packets, each second transport packet having a second identifier associated with the encryption information (col1 line 59 to col.3 line 7, col.11 line 10 to col.12 line 42, and col.15 line 25 to col.16 line 19).

3. Regarding Claim 14 Marker teaches and describes a method of receiving and processing a program signal, comprising: simultaneously receiving data via a plurality of communications channels, including receiving an encrypted program signal via a first communications channel, the encrypted program signal transmitted via first transport packets, each first transport packet having a first identifier associated with the program signal, and receiving a plurality of encryption information portions via a second communications channel that is independent of the first communications channel, the encrypted information transmitted via second packets, each

Art Unit: 2431

second transport packet having a second identifier associated with encryption information; assembling the plurality of encryption information portions to recover the encryption information; and decrypting the encrypted program signal using the recovered encryption information to generate the program signal (col.1 line 59 to col.3 line 7, col.11 line 10 to col.12 line 42, and col.15 line 25 to col.16 line 19).

4. Regarding Claim 19 Marker teaches and describes a method of receiving a television program signal via a satellite path, comprising: receiving a user command selecting a program associated with a first channel; simultaneously tuning to a plurality of channels to receive data via the plurality of channels, including receiving an encrypted program signal associated with the selected program via the first channel, the encrypted program signal transmitted via first transport packets, each transport packet having a first identifier associated with the program signal, and receiving a plurality of encryption information portions via a second channel that is independent of the first channel, the encryption information portions transmitted via second transport packets, each second transport packet having a second identifier associated with encryption information; assembling the plurality of encryption information portions to recover the encryption information; decrypting the encrypted program signal using the recovered encryption information to generate the program signal; processing the program signal to generate a display signal (col.1 line 59 to col.3 line 7, col.11 line 10 to col.12 line 42, and col.15 line 25 to col.16 line 19).

5. Regarding Claim 22 Marker teaches and describes an apparatus, comprising: means for

Art Unit: 2431

simultaneously receiving data from a plurality of communications channels; control means, coupled to the receiving means, for selecting channels received by the receiving means; processing means, coupled to the receiving means, for processing data received via the plurality of communications channels; user input means for receiving user commands including selection of a program associated with a first communications channel, wherein the control means causes the receiving means to receive an encrypted program signals associated with the selected program via the first communications channel in response to a user command, the encrypted program signal transmitted via first transport packets, each first transport packet having a first identifier associated with the program signal, and receive a plurality of encryption information portions via a second communications channel that is independent of the first communications channel, the encryption information portions transmitted via second transport packets, each second transport packet having second identifier associated with the encryption information, the processing means assembling the encryption information portions to generate the encryption information and decrypting the encrypted program signal using the assembled encryption information (col. 1 line 59 to col.3 line 7, col.11 line 10 to col.12 line 42, and col.15 line 25 to col.16 line 19).

5. Claims 10-13, 16-18, 21, and 24-26 are rejected applied as above in rejecting claims 1, and 17. Furthermore, Marker teaches and describes a secure data multi channel transmission, wherein:

As per Claim 10, each of the plurality of encryption information portions is transmitted

Art Unit: 2431

over a respective unique one of the plurality of communications channels that is independent of the first communications channels (col.11 line 10 to col.12 line 42, and col.15 line 25 to col.16 line 19).

As per Claim 11, the program signal is representative of a television program, and the encryption information corresponds to an entitlement control message col.11 line 10 to col.12 line 42, and col.15 line 25 to col.16 line 19)..

As per Claim 12, the plurality of communications channels comprise satellite data paths (col. 1 line 59 to col.3 line 7).

As per Claim 13, the program signal is representative of a television program, and the encryption information corresponds to an entitlement control message (col.11 line 10 to col.12 line 42, and col.15 line 25 to col.16 line 19).

As per Claim 16, each one of plurality of encryption information portions is received via a respective unique communications channel of the plurality of communications channels col.11 line 10 to col.12 line 42, and col.15 line 25 to col.16 line 19).

As per Claim 17, the program signal corresponds to a television program signal and the encryption information comprises an entitlement control message col.11 line 10 to col.12 line 42, and col.15 line 25 to col.16 line 19).

As per Claim 18, the program signal corresponds to a television program signal and the encryption information comprises an entitlement control message col.11 line 10 to col.12 line 42, and col.15 line 25 to col.16 line 19).

As per Claim 21, each one of plurality of encryption information portions is received via a respective unique channel of the plurality of channels (col.11 line 10 to col.12 line 42, and

Art Unit: 2431

col.15 line 25 to col.16 line 19).

As per Claim 24, the receiving means receives each of the plurality of encryption information portions via a respective unique communications channels that is independent of the first communications channel (col.11 line 10 to col.12 line 42, and col.15 line 25 to col.16 line 19).

As per Claim 25, the program comprises a television program and the encryption information comprises an entitlement control message (col.11 line 10 to col.12 line 42, and col.15 line 25 to col.16 line 19).

As per Claim 26, the communications channels correspond to satellite transmission channels (col. 1 line 59 to col.3 line 7).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

Art Unit: 2431

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SYED ZIA whose telephone number is (571)272-3798. The examiner can normally be reached on 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SZ

December 28, 2009

/Syed Zia/

Primary Examiner, Art Unit 2431